

PT 01-27

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**HAZELDEN FOUNDATION,
APPLICANT**

Docket No: 00-PT-0035

**Real Estate Exemption
For 1998 Tax Year**

v.

**P.I.N. 17-04-442-040 and
17-04-442-041
Cook County Parcels**

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

**Kenneth J. Galvin
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCE: Mr. John J. Lawlor, Sonnenschein, Nath & Rosenthal, on behalf of Hazelden Foundation.

SYNOPSIS: This proceeding raises the issue of whether real estate, identified by Cook County Parcel Index Numbers 17-04-442-040 and 17-04-442-041 (hereinafter the “subject property”) should be exempt from 1998 real estate taxes under section 15-65 of the Property Tax Code. 35 ILCS 200/15-65.

This controversy arose as follows: Hazelden Foundation (hereinafter “Hazelden”) filed a Property Tax Exemption Complaint with the Cook County Board of Review seeking exemption from 1998 real estate taxes for the subject property. The Board reviewed Hazelden’s Complaint and recommended that the 1998 exemption be denied.

The Illinois Department of Revenue (hereinafter the “Department”) accepted the Board’s recommendation in a determination dated March 9, 2000. This determination found that the subject property was not in exempt ownership and not in exempt use in 1998. Hazelden filed a timely appeal of the Department’s denial of exemption. On February 21, 2001, a formal administrative hearing was held with Peter Palanka, Regional Vice-President, Michael Ranum, Chief Financial and Administrator Officer, and Douglas W. Stanley, a participant in Hazelden’s program, testifying. Following a careful review of the testimony and evidence, it is recommended that the Department’s determination be affirmed.

FINDINGS OF FACT:

1. Dept. Ex. Nos. 1, 2 and 3 establish the Department’s jurisdiction over this matter and its position that the subject property was not in exempt ownership and not in exempt use during 1998.
2. Hazelden began in 1949 in Center City, Minnesota. Hazelden instituted the “Minnesota Model for Treatment,” a model of care used today throughout the country to treat chemical dependency, alcoholism and substance abuse problems. Tr. p. 13.
3. Hazelden operates the following programs in Minnesota: a 28-day residential program in Center City; an adolescent/young adult program in Plymouth; and a long-term residential program in St. Paul. There are also programs in New York City and West Palm Beach, Florida. Tr. pp. 13-14.

4. Hazelden operates a residential program on the subject property. This program is for people who require ongoing support, including residency, for successful recovery. Tr. p. 15.
5. Hazelden operates an outpatient program on the subject property. This program includes daily lectures and peer discussion groups. There is also an evening intensive outpatient program. These programs are designed to enable people who are continuing to work to be treated for substance abuse. Hazelden has a self-help program on the subject property, consisting of 400 people, meeting weekly in 13 groups, and a program for family members and concerned friends of people undergoing treatment. Tr. pp. 15-19.
6. Hazelden staff operates a toll-free number, 24 hours a day, and publishes brochures that are designed to identify substance abuse problems and services available. Educational materials related to substance abuse and addiction are furnished to police and fire departments and employer associations. Hazelden sponsors two-day training sessions for managers in the Chicago Police Department for assistance in identifying employees with abuse problems. Tr. pp. 17-20.
7. Hazelden provides information to schools to help them identify students with substance abuse problems and assistance with ongoing recovery issues. Hazelden participates in "Parent Universities," in which parents come to their child's high school to learn how to identify substance abuse in an adolescent and effective strategies for treatment. Tr. pp. 18-21.

8. Hazelden sponsors the “Chicago Colleague Community Circle,” a group of private practitioners meeting once a month. The practitioners are given information related to substance abuse treatment and monitoring of symptoms. Tr. p. 19.
9. Hazelden participates in health fairs and in training athletic coaches with regard to drug testing. Hazelden works with nonprofit organizations and mental health organizations to ensure that anyone who needs or requests assistance is aware of the care available. Tr. pp. 21-22.
10. Hazelden’s “Articles of Incorporation” state that the purpose of the corporation is “exclusively religious, charitable, scientific, literary, educational and any other like charitable purpose beneficial to those it serves...” Hazelden operates under a set of “Bylaws.” Tr. pp. 24-25; Applicant’s Ex. Nos. 2 and 3.
11. Hazelden is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code. Tr. pp. 25-26; Applicant’s Ex. Nos. 4 and 5.
12. The public may find out about Hazelden’s services through the toll free number. Additionally, ministers and practitioners in the psychological and psychiatric field refer patients to Hazelden. Tr. pp. 35-37.
13. Hazelden purchased the subject property on June 6, 1996 for \$1.7 million, and spent \$837,625 for remodeling and improving. The land consists of 10,416 square feet. Tr. pp. 37-40; Applicant’s Ex. No. 9.
14. The subject property consists of three adjacent and connected buildings with three floors and a basement. Each floor contains 6000 square feet. Tr. pp. 41-53; Applicant’s Ex. No. 10-A1.

15. The basement level contains a cafeteria, an open courtyard that all patients have access to, a patient assessment area, a medical record area, and a group meeting area. 92% of the basement is dedicated to patient use and 8% is dedicated to administrative use. Tr. pp. 44-45; Applicant's Ex. No. 10-A2.
16. The main floor contains a meeting area for Alcoholics Anonymous, Narcotics Anonymous, Alanon, and Families Anonymous, a patient lecture area, a staff training area, a gathering/living room for patients, a patient information area containing books and pamphlets, and an individual and family counseling area. 90% is dedicated to patient use and 10% to administrative use. Tr. pp. 46-48; Applicant's Ex. No. 10-A3.
17. The second floor is the women's residence containing 15 beds, an office area for the person who supervises the floor, a meditation room, and individual and group counseling areas. 95% is dedicated to patient use and 5% to administrative use. Tr. pp. 41-42, 48-50; Applicant's Ex. No. 10A-4.
18. The third floor is the men's residence containing 15 beds, an office for the person who supervises the floor, and an administrative area for Hazelden. 75% is dedicated to patient use and 25% to administrative use. Tr. pp. 41-42; 50-52; Applicant's Ex. No. 10A-5.
19. Daily program rates in effect in 1998 at the subject property were as follows: Day Treatment \$310; Daytime Intensive Outpatient Treatment \$195; Evening Intensive Outpatient \$195; Continuing Care Groups \$45; Day and Evening Transition Care \$105; Extended Residential Care \$130; Insight Group \$120 (for

program); Family Program \$100 (per family per day); Comprehensive 3-5 Day Assessment \$1500. Tr. pp. 71-72; Applicant's Ex. No. 11.

20. In 1994, Hazelden created a "means test" to assess a patient's ability to pay for services. Four factors are assessed and given a point value: family income; equity in the family home; net assets of the family excluding the family home; and number of dependents in the family. Based on the point value, the cost of all services may be discounted as follows: 0-4 points (75% adjustment); 5-8 points (50% adjustment); 9-12 points (25% adjustment); 12-16 points (0% adjustment). Tr. pp. 72-74; Applicant's Ex. No. 17.

21. The means test is applied to the balance of payments due after consideration of available insurance coverage. If a patient is unable to afford the discounted rates, Hazelden determines the availability of financial assistance from its "Lifesaver Fund," which is a source of gifts and low cost loans. Tr. pp. 75-76; Applicant's Ex. No. 13.

22. In 1998, 9,473 people received treatment from Hazelden Foundation (worldwide) for services valued at \$43,575,824. Hazelden assisted 2,035 of the 9,473 patients through either discounted rates or services without charge from the "Lifesaver Fund." The dollar value of services for these 2,035 people was \$8,552,884 and approximately \$3,800,000 of this amount was waived. On average, each of the 2,035 patients received a waiver of \$1,867. Of the total value of Hazelden's services of \$43,574,824, 8.7% was waived. Tr. pp. 77-80; Applicant's Ex. No. 18.

23. Patients receiving financial aid get the same services as other patients. Counselors, psychotherapists and social workers are not aware if a patient is receiving

a discounted fee or a waiver. Once a person has started a program, Hazelden does not reject them if they are subsequently unable to pay. Tr. pp. 79-80, 88-90, 103-104.

CONCLUSIONS OF LAW:

An examination of the record establishes that Hazelden has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1998 real estate taxes. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limitations imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1st Dist. 1983).

In accordance with its constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code which states as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not otherwise used with a view to profit:

- (a) Institutions of public charity.
 - (b) ***
 - (c) Old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, if, upon making application for exemption, the applicant provides affirmative evidence that the home or facility is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code or its successor and either: (i) the bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services, or (ii) the home or facility is qualified, built or financed under Section 202 of the National Housing Act of 1959, as amended.¹
- 35 ILCS 200/15-65

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1st Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof upon the party seeking exemption, and have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

¹ No evidence was presented at the hearing that Hazelden qualified under 35 ILCS 200/15-65(c)(ii).

At the evidentiary hearing, Hazelden took the position that the applicable statutory subsection was 735 ILCS 200/15-65(a), “institution of public charity,” and proceeded to apply the guidelines articulated in Methodist Old People's Home v. Korzen, 39 Ill. 2d 149 (1968) (hereinafter "Korzen"). However, under a broad reading of 35 ILCS 200/15-65(c), Hazelden met some of the threshold requirements of an “organization providing [for] ... social and physical development,” and this subsection must also be considered.

Subsection (c):

Hazelden’s ownership of the subject property was established by a deed evidencing that it acquired title to the property on June 6, 1996. Applicant’s Ex. No. 9. Hazelden is a Minnesota not-for-profit corporation. Applicant’s Ex. No. 21. Hazelden provided affirmative evidence that it is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code. Applicant’s Ex. Nos. 4 and 5. Hazelden provides services and facilities related to the goal of social development. Since 1949, Hazelden has focused on “helping people to overcome the diseases of alcoholism and drug dependency and regain their sense of hope, health, and well being.” Applicant’s Ex. No. 13.

Subsection (c) also requires that the bylaws of the not-for-profit organization must provide for a waiver or reduction in fees based upon an individual’s ability to pay. Hazelden’s bylaws do not provide for a waiver or reduction of fees. Applicant’s Ex. No. 3. Hazelden did offer into evidence one sheet of paper entitled “Means Test,” which allows for a waiver or reduction in fees according to an individual’s ability to pay. Applicant’s Ex. No. 17. The “Means Test,” was not submitted as part of an operations

manual or procedures manual, and it is unclear how personnel at the subject property would even know that a waiver or reduction in fees is available to applicants who need it. I am unable to conclude that the sheet of paper entitled “Means Test” has the force and effect of a bylaw. Accordingly, Hazelden does not satisfy the requirements of subsection (c) of 735 ILCS 200/15-65.

Subsection (a):

In Korzen, the court set forth guidelines for determining whether an organization qualifies as an institution of public charity: (1) the benefits derived are for an indefinite number of persons [for their general welfare or in some way reducing the burdens on government]; (2) the organization has no capital, capital stock or shareholders, earns no profits or dividends; (3) funds are derived mainly from private and public charity, and the funds are held in trust for the objects and purposes expressed in the charter; (4) the charity is dispensed to all who need and apply for it, and does not provide gain or profit in a private sense to any person connected with it; (5) the organization does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses; and (6) the exclusive (primary) use of the property is for charitable purposes. *Id.* at 156.

The above factors are guidelines for assessing whether property is exempt from taxation but are not definitive requirements. DuPage County Board of Review v. Joint Comm’s on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461 (1965). Thus, a rigid formula is not to be applied to all fact situations but instead “courts consider and balance the guidelines by examining the facts of each case and focusing on whether

and how the institution serves the public interest and lessens the State's burden." *Id.* at 469.

Guideline 1: The benefits derived are for an indefinite number of persons [for their general welfare or in some way reducing the burdens of government].

According to testimony at the evidentiary hearing, the public may find out about Hazelden's services through the toll free number, operated 24 hours a day. Additionally, Hazelden staff publishes brochures that are designed to identify substance abuse problems and services available. Tr. pp. 17-18. Educational materials related to substance abuse and addiction are furnished to police and fire departments and employer associations. Hazelden sponsors training sessions for the Chicago Police Department for assistance in identifying employees with abuse problems. Tr. pp. 19-20.

Ministers and practitioners in the psychological and psychiatric field refer patients to Hazelden. Tr. pp. 34-35. Hazelden provides information to schools and parents to help them identify children with substance abuse problems and effective strategies for treatment. Tr. pp. 18-21. Hazelden conducts seminars with private practitioners and provides them with information related to substance abuse. Tr. p. 19.

I am unable to conclude that the dissemination of information about Hazelden's services, described above, would ensure that benefits are derived by an indefinite number of persons. There was no testimony at the hearing as to whether Hazelden's outreach to the community emphasizes Hazelden's fee for service programs or, in any way, advises people who cannot afford Hazelden's services that services are available at reduced or no cost.

For example, Hazelden participates in “Parent Universities” in which its staff goes out to high schools to talk to parents about identifying substance abuse problems and strategies for treatment. Tr. pp. 18-21. These seminars have taken place at Downers Grove North and South, New Trier, and Wheaton/Warrenville High Schools. Tr. p. 20. This tribunal takes administrative notice that these high schools are located in Chicago suburbs, not recognized for lower income populations. I reasonably conclude that Hazelden’s outreach to these high schools is designed to generate fee-paying patients and revenue for Hazelden. There was no testimony at the hearing that Hazelden conducts similar seminars at Chicago high schools, where people needing but unable to pay for Hazelden’s services would be likely to attend. Similarly, Hazelden provides educational materials related to substance abuse to the police and fire departments and employer associations. Tr. pp. 17-20. This aspect of its outreach program was offered without specifics as to target areas so that a conclusion cannot be made that it is designed to reach all who may need Hazelden’s service. However, I conclude that materials offered to employer associations target persons with income and/or insurance. Hazelden’s dissemination of information, at first glance, appears to be extensive, but they failed to prove that this dissemination is directed toward people who are in need of their services at reduced or no cost.

The second part of the guideline requires an analysis of whether Hazelden’s services lessen the burdens of government. “The fundamental ground upon which all exemptions in favor of charitable institutions are based is the benefit conferred upon the public by them and a consequent relief, to some extent, of the burdens upon the state to care for and advance the interests of its citizens.” School of Domestic Arts and Sciences

v. Carr, 322 Ill. 562 (1926). “Charity does not necessarily mean almsgiving” but in a broader sense, is defined as an application of property for the benefit of an indefinite number of persons, by relieving their body from disease, suffering and constraint, or by assisting them to establish themselves for life. Oasis, Midwest Center for Human Potential v. Rosewell, 55 Ill. App. 3d 851 (1st Dist. 1977).

I conclude that Hazelden’s services reduce the burdens on government. There are a number of programs at the federal, state, and county level, funded by those entities, similar to the Hazelden program. Some of these programs use the “Minnesota Model for Treatment,” first instituted by Hazelden. Tr. p. 28. States spent \$81.3 billion on drug and alcohol abuse related problems in 1998. Tr. p. 29. It is obvious that anyone seeking treatment at Hazelden is reducing the cost to the government of providing the same treatment.

At the evidentiary hearing, Hazelden presented studies showing a high correlation between drug abuse and robbery and drug and alcohol abuse and theft among males in Chicago. Tr. pp. 31-32. Additionally, battered women who speak about their experience often correlate it to an alcoholic husband or boyfriend. Tr. pp. 33-34. Testimony offered at the evidentiary hearing indicated that Hazelden’s programs can “absolutely” lead people away from a cycle of drug and alcohol abuse and robbery and theft and that once an addicted person engages recovery, the likelihood of their participating in “some of these obviously less-desirable behaviors is reduced dramatically.” Tr. pp. 33-34.

In summary, I conclude that Hazelden’s services reduce the burden of government. However, Hazelden has failed to prove that its dissemination of information

ensures that benefits are derived by an indefinite number of persons because it failed to prove that its outreach is directed to those who are unable to afford Hazelden's services.

Guideline 2: The organization has no capital, capital stock or shareholders and earns no profits or dividends.

Testimony at the evidentiary hearing indicated that Hazelden does not have capital stock or shareholders, and does not pay dividends. If Hazelden has a surplus, the funds are added to accumulated reserves, and will "be there to offset future operating deficits or to allow the organization to make a capital investment..." Tr. pp. 67-68.

Guideline 3: Funds are derived mainly from public and private charity, and the funds are held in trust for the objects and purposes expressed in the charter.

For the year ended December 31, 1998, 91% of Hazelden's operating revenues came from patient care and professional services, 7% came from contributions, 1% came from the government. Tr. p. 70; App. Ex. No. 20. As these figures demonstrate, the majority of Hazelden's revenue is not derived from public and private charity.

However, Illinois courts have recognized that "the mere fact that an organization may charge those able to pay for the use of facilities or services of the corporation does not make such an organization 'non-charitable' where it does furnish such facilities for services to those unable to pay." Illinois Hospital & Health Service v. Aurand, 58 Ill. App. 3d 79 (2nd Dist. 1978). Similarly, in Sisters of St. Francis v. Board of Review, 231 Ill. 317, 321 (1907), the court stated that a charitable organization does not lose its exemption "by reason of the fact that those patients received by it who are able to pay are required to do so, or by reason of the fact that it receives contributions from outside sources, so long as all the money received by it is devoted to the general purposes of the

charity, and no portion of the money received by it is permitted to inure to the benefit of any private individual engaged in managing the charity.”

Hazelden failed to prove that the money it receives does not “inure to the benefit of any private individual engaged in managing the charity.” Testimony at the hearing indicated that Hazelden “monitors” whether or not their executive and professional people are paid salaries comparable to similar positions in the not-for-profit sector. Tr. p. 69. Additionally, Hazelden does a “formal study every two years on the compensation package of our chief executive officer and report to our Board the status of that compensation package. We find ourselves to be short of the median of what we establish to be the market.” Tr. p. 69.

Whatever Hazelden does to “monitor” the salaries of their executive and professional staff was not admitted into evidence. The “formal study” completed every two years was also not admitted into evidence. Hazelden Foundation’s (worldwide) financial statements for December 31, 1998, show “Salaries, Wages and Benefits” of \$28 million, which constitutes 49% of “Total Operating Expenses.” There was no testimony at the hearing as to how many employees are included in this figure, their level or grade, or salary range. Moreover, there was no testimony as to what percentage of this \$28 million was paid to employees located on the subject property. There was no documentary evidence presented as to how Hazelden’s salaries compared to similar organizations in the community.

“The employees of a charitable institution are not compelled to perform free services in order that the institution may be charitable.” Yates v. Board of Review, 312 Ill. 367 (1924). “The payment of reasonable salaries to necessary employees for services

actually rendered does not convert a nonprofit enterprise into a business enterprise.” 86 Ill. Admin. Code §130.2005(h). There was testimony at the hearing that Hazelden counselors, physicians and staff are not paid on the basis of the number of patients treated or on the basis of Hazelden’s revenues. Tr. p. 68. However, this testimony is wholly inadequate for me to conclude that salaries paid were reasonable or that the revenue received by Hazelden does not inure to the benefit of private individuals. Without an explanation for the \$28 million outlay for “Salaries, Wages and Benefits,” including an accounting of salary expense on the subject property, Hazelden has failed to prove that its revenues are devoted to the general purposes of the charity.

Guideline 4: Charity is dispensed to all who need and apply for it.

Hazelden argued at the evidentiary hearing that charity is dispensed to all who need and apply for it because of the “means test.” Hazelden created the “means test” in 1994. This test allows Hazelden to assess the ability of a patient to pay for required services. Four primary factors are considered: family income; equity in the family home; net assets excluding the family home; and number of dependents in the family. Patients are assigned points based on the four factors and the overall discount is assigned based on point total. The means test calls for a 75% discount of the cost of services if a patient scores 0-4 points, which would be the lowest point total. Tr. p. 72. There is no provision in the means test for a 100% discount of the cost of services.

The means test and the graduated rate apply to all services provided by Hazelden. Tr. p. 73. The purpose of the means test is to “try and provide services to as many people as possible:”

We didn’t want to have our services only available to one economic bracket. We wanted to make sure our services

were available to everyone. Tr. p. 74.

The means test and the graduated rates remove “most of the financial impediments for those who might be seeking Hazelden’s services.” Tr. p. 74. According to testimony at the hearing, if a patient is unable to pay the graduated rate, Hazelden then determines the availability of financial assistance from its “Lifesaver Fund,” which is a source of gifts and low cost loans for people who lack personal funds or insurance coverage to pay for the full cost of recovery services. Tr. pp. 75-76. “Lifesaver Funds” are available for all recovery programs and for members of the general public who demonstrate financial need. Applicant’s Ex. No. 13.

In 1998, Hazelden Foundation (worldwide) assisted 2035 of its 9473 patients through either graduated rates from the “means test” or services without charge. On average, each of these 2035 patients received a waiver of \$1,867. Approximately \$3,800,000 or 8.7% of Hazelden’s professional services was waived. Tr. pp. 77-80. At the evidentiary hearing, Hazelden submitted a list of patients, identified by “patient reference number” for privacy purposes, showing the “total charges” and “total aid provided” to 1536 patients as of December 31, 1998. 149 of these 1536 patients have their “Patient State” listed as Illinois. 22 of the 149 patients in this category had all charges waived. App. Ex. No. 18.

There are several problems with this data. First, the dollar figures are for Hazelden Foundation (worldwide) and no data was offered showing comparable figures for the subject property. There was testimony at the hearing that it was “basically true” that the same “profiles would apply if you were to focus on the subject property’s assistance program.” Tr. p. 79. However, there was no testimony as to the revenue

generated or patients served on the subject property in 1998 so there is no way to estimate or “profile” the dollar value of fees waived or patients receiving assistance there. Hazelden is requesting a charitable exemption for the subject property yet failed to provide evidence, in terms of dollars or patients, of any charity dispensed from that specific property.

Secondly, although the listing of 1536 patients assisted during 1998 shows that 149 listed a “Patient State” of Illinois, I am unable to conclude that these patients were assisted from the subject property. Hazelden’s pamphlet entitled “Youth Substance Abuse Services” lists “Youth Service Locations” in “Hazelden Chicago at Lombard” and “Hazelden Chicago at Deerfield.” Applicant’s Ex. No. 8. I presume that patients at these locations would have a “Patient State” of Illinois and would be included in the 149 patients assisted in this State. The party claiming a property tax exemption has the burden of proving by clear and convincing evidence that the property falls within the terms of the exemption statute. Evangelical Hospital Corp. v. Department of Revenue, 223 Ill. App. 3d 225 (1st Dist. 1991). I am unable to conclude that the subject property falls within the terms of the exemption statute when no financial information specific to the subject property was admitted into evidence.

In order to score zero points on the means test, a patient must have a family income of less than \$20,000, equity in a primary residence of less than \$20,000, net assets of less than \$6,000 and more than 7 dependents. If a patient scored zero points, he would receive a 75% discount on Hazeldens’ rates. According to testimony at the hearing, if a patient is unable to pay the graduated rates from the “means test,” Hazelden then determines the availability of financial assistance from its “Lifesaver Fund,” which

is a source of gifts and low cost loans for people who lack personal funds or insurance coverage to pay the full cost of recovery services. Tr. pp. 75-76; Applicant's Ex. No. 13. No explanation was offered at the hearing as to how a patient could get all fees waived or the criteria that must be met before Hazelden personnel offer patients financial assistance from the "Lifesaver Fund." There was no evidence as to how a Hazelden manager at the subject property would even know there was a "Lifesaver Fund," since no operations manual or procedures manual were admitted into evidence. Nor was there any testimony at the hearing as to how many patients at the subject property received financial assistance from the "Lifesaver Fund."

With regard to the "low cost loans" made to people needing financial assistance, Note 7 of the "Consolidated Financial Statements" states that "for patients meeting certain criteria, loans are extended at zero interest for up to one year, at which time loan repayment is arranged at below market interest rates and at payment terms which consider the borrower's ability to pay." There was no testimony at the hearing with regard to the "certain criteria" that must be met by a patient before a loan is offered. Additionally, the "Consolidated Statement of Unrestricted Operations," includes an "Operating Expense" titled "Other, including doubtful accounts." Applicant's Ex. No. 20. The presence of this account indicates that Hazelden makes an attempt to collect payment from the same persons whom they claim they serve as charity cases. Highland Park Hospital v. Department of Revenue, 155 Ill. App. 3d 272 (2d Dist. 1987). Because no explanation was offered as to the criteria for the loans and the attempts to collect them, I am unable to conclude that these loans are consistent with the dispensation of charity.

In analyzing the requirements of this guideline under Korzen, I note that some factors weigh in Hazelden's favor. There was testimony that patients receiving financial aid get the same services as other patients. Counselors, therapists and social workers are not aware if a patient is receiving a discounted fee or a waiver. Tr. pp.79-80. Patients are only refused treatment at Hazelden, if in addition to a chemical dependency, they have a medical problem, such as anorexia or psychosis, that requires extensive treatment beyond that offered at Hazelden. Hazelden will refuse to admit a person only when it is not able to provide the treatment needed by the individual. These patients are then referred to an appropriate provider. If there are no additional pathologies, Hazelden attempts to accommodate all patients. Tr. pp. 86-89. However, no evidence was offered to show that this testimony constitutes official Hazelden policy, or what it means in actual practice, or that employees at the subject property would know that this was policy.

Guideline 5: No obstacles appear to be placed in the way of those who need and would avail themselves of the charitable benefits dispensed.

In Highland Park Hospital, the court found that an Immediate Care Center did not qualify for a charitable exemption because, *inter alia*, the advertisements for the facility did not disclose its charitable nature. The court stated that "the fact is that the general public and those who ultimately do not pay for medical services are never made aware that free care may be available to those who need it." *Id.* at 281. In Alivio Medical Ctr. v. Department of Revenue, 299 Ill. App. 3d 647 (1st Dist. 1998), where the court denied a charitable exemption for a medical care facility, the court again noted that "Alivio does not advertise in any of its brochures that it provides charity care, nor does it post signs stating that it provides such care." *Id.* at 652.

Hazelden's advertised rate schedule, contained in a brochure entitled "Hazelden Chicago" states that "Hazelden strives to provide the highest quality care at the lowest possible cost. ... A financial case manager will assist patients and families with insurance claims and to develop a financial package that meets individual needs." The brochure also states that Hazelden is a "non-profit organization." App. Ex. No. 11. I am unable to conclude, from the above statements, that the general public would be aware that free care is available at Hazelden. The phrases "lowest possible cost," and "financial package that meets individual needs" are certainly not indicative of an organization offering free or even subsidized care for those who need it. In addition, this tribunal takes administrative notice that Hazelden is located in an affluent section of Chicago.² Hazelden's location in this area, not routinely frequented by the segment of the public needing free care, and their lack of advertisement that free care is available, place an obstacle in the way of those who need and would avail themselves of Hazelden's services.

Guideline 6: Exclusive (primary) use of the property is for charitable purposes.

The subject property consists of three connected buildings with three floors and a basement. Over 90% of the basement and the first two floors are dedicated to patient use with the remainder dedicated to patient-related administrative use. 75% of the third floor is dedicated to patient use and 25% contains the primary administrative area of the building. Tr. pp. 41-53; Applicant's Ex. No. 10-A1-5. The administrative area was put on the north side of the third floor because an elevator was installed in the north building, making it wheelchair accessible. Tr. pp. 51-52.

² Hazelden-Chicago is located at 863-869 North Dearborn Street, approximately 4 blocks from Michigan Avenue, known for its upscale shopping and residential properties.

I am unable to conclude that the property is used exclusively for charitable purposes. An “exclusively” charitable purpose need not be interpreted literally as the entity’s sole purpose; it should be interpreted to mean the primary purpose, but not a merely incidental purpose or secondary purpose or effect. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430,436 (1st Dist. 1987). Incidental acts of beneficence are legally insufficient to establish that the applicant is “exclusively” or primarily a charitable organization. Rogers Park Post No. 108 v. Brenza, 8 Ill. 2d 286 (1956). Although Hazelden does appear to perform some charitable acts in the nature of reduced or waived fees, they failed to prove that charitable acts occur on the subject property. Accordingly, I am unable to conclude that the use of this property is exclusively charitable.

For these reasons, it is recommended that the Department’s determination which denied the exemption from 1998 real estate taxes on the grounds that the subject property was not owned or used by an institution of public charity should be affirmed, and Cook County Parcels, Index Numbers 17-04-442-040 and 041 should not be exempt from 1998 real estate taxes.

ENTER:

April 25, 2001

Kenneth J. Galvin